

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, AMENDING, AND REPEALING AND RECREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.01(2)(f)4. and 45.09(10); amend NR 10.01(2)(a)4., (c)1.b., (e)2., (f) 3., (g)2., (3)(a)2., (bt), (c)1.a. and 2.b., (f)3., (h)1.b., 10.275(intro.), (1)(a), (b)1., (2)(c), and (3)(a); and repeal and recreate NR 10.29 relating to small game and expanded spring turkey hunting in state parks.

WM-31-05

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation of Agency Authority: Statutes that authorize the promulgation of this rule order include ss. 27.01(2), 29.014, 29.089(3), 29.041 and 227.11, Stats. These sections grant rule making authority to the department to establish and maintain open and closed seasons for hunting and all rules promulgated under this authority are subject to review under ch. 227, Stats.

Statutes Interpreted and Explanation of Agency Authority: In promulgating this rule, ss. 29.014, 29.041, and 29.089(3), Stats., have been interpreted to authorize the department to establish small game and turkey hunting seasons in state parks.

Related Statute or Rule: None.

Plain Language Analysis: This rule order removes sunset dates from chapter NR 10, which will allow the hunting of small game, upland game birds, and migratory birds to continue at Mill Bluff and Mirror Lake state parks. The rule also discontinues the hunting of small game, upland and migratory game birds at Newport and Governor Dodge state parks. Finally, the rule creates three new state park turkey management zones. Willow River, Interstate and Newport state parks will be included in the department's annual turkey management permit issuance system, no longer requiring an additional special permit to hunt in these parks.

Summary of, and Comparison with, Existing or Proposed Federal Regulations: State rules and statutes may not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations. Regulation of hunting and trapping of native species has been delegated to state fish and wildlife agencies and there are no applicable Federal regulations, except as pertaining to migratory game birds. Additionally, none of the proposed rules exceed the authorities granted the states in 50 CFR 10.

Comparison with Rules in Adjacent States: Minnesota does not allow hunting in state parks except as required for the management of wild populations, such as deer. Illinois allows small game hunting in most state parks, the only exceptions are those parks with small acreage. In Iowa, state parks are considered wildlife refuges where hunting and trapping is prohibited. However in recent years, in states like Minnesota, special hunting seasons have been established to address deer overpopulation situations. Michigan allows hunting on approximately 200,000 acres of park and recreation lands.

Summary of Factual Data and Analytical Methodologies: In 2002, the Natural Resources Board (NRB) adopted WM-33-02, a rule package modifying NR Chapters 10 and 45, Wis. Adm. Code that authorized small game hunting and would expand spring turkey in six of Wisconsin's state parks and approved the corresponding master plan amendments. Associated with this rule was a three year sunset and an understanding that the department would conduct a review of the three year pilot. The reason a three year sunset was incorporated into the rule was due to the anticipated controversy over user conflicts in the parks. This report has been prepared in response to the Citizen Advisory Committee (CAC) recommendation that a final report be developed following the second year of the pilot (Spring 2005). This report is prepared for review by the Bureaus of Parks and Wildlife Policy and Management Teams, the regional parks and wildlife supervisors, and the original CAC to determine whether these expanded hunting opportunities are continued.

Based on feedback from State Park and Wildlife staff, we recommend continuation of the Spring Turkey hunts at Interstate, Willow River and Newport State Parks. To accomplish this administrative rules should be drafted that create individual turkey management zones for each of these parks. These hunts would be managed as hunts are currently managed at the other state parks that currently allow spring turkey hunting (Governor Dodge, Devils Lake, Wyalusing, Wildcat Mountain, Mirror Lake and Buckhorn State Parks). Wildlife biologists will continue to work with park staff to determine appropriate permit levels for these parks.

Small game hunting will continue at Governor Dodge, Mirror Lake, and Mill Bluff State Parks. Each of these hunting opportunities has provided increased opportunity for hunters in these two state parks and there is little evidence of loss in non-hunting visitation or conflicts during these hunts. When a State Park develops or reviews a property's Master Plan, small game hunting under this model should be considered. In considering a property for small game hunting, issues that would be reviewed should include an assessment of undeveloped park acreage available for hunting, distance from populated area, adjacent land uses, park layout, local support, potential user conflicts, game species availability, and special environmental concerns. Lack of hunter utilization was cited as the primary reason for discontinuing the small game hunt at Newport. This park, will now offer deer and turkey hunting opportunities, both of which appear popular with hunters and will continue. However, with such limited use and interest in small game hunting, the administration of a continued small game hunt at the park was viewed as impractical and is not being recommended for continuation.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

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Section 1. NR 10.01(2)(a)4. is amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
(a) <i>Ruffed grouse</i>		
4. <u>Governor Dodge, Mill Bluff, and Mirror Lake</u> and Newport state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	Daily bag 5; possession 10

Section 2. NR 10.01(2)(c)1.b. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(c) <i>Pheasants</i>		
b. <u>Governor Dodge, Mill Bluff and Newport Mirror Lake</u> state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	Daily bag 2; possession 4

Section 3. NR 10.01(2)(e)2. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(e) <i>Bobwhite quail</i>		
2. <u>Governor Dodge, Mirror Lake and Newport Mill Bluff</u> state parks.	Beginning on November 1 to the close of the season listed in subd. 1. in 2003, 2004 and 2005.	Daily bag 5; possession 10

Section 4. NR 10.01(2)(f)3. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(f) <i>Wild turkey</i>		
3. Zones 4A, 5A, 10A, 13A, 15A, 15C, 34A, 37A, 37B and the Mill Bluff state park portions of zones 9 and 13 as described in s. NR 10.29.	Spring season beginning on the Wednesday nearest April 13 and continuing Wednesday through Sunday for 3 consecutive 5-day time periods.	Only male or bearded turkeys may be killed. The possession limit corresponds to the number of carcass tags issued.

Section 5. NR 10.01(2)(f)4. is repealed.

Section 6. NR 10.01(2)(g)2. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(g) <i>Crow</i>		
2. Governor Dodge, Mill Bluff and Newport <u>Mirror Lake</u> state parks	Beginning on Nov. 1 and continuing through the Thursday immediately preceding the gun deer season for Zone A in s. NR 10.01(3)(e) in 2003, 2004 and 2005	Daily bag 15; possession 30

Section 7. NR 10.01(3)(a)2. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(a) <i>Gray and fox squirrels</i>		
2. Governor Dodge, Mill Bluff, <u>and</u> Mirror Lake and Newport state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	Daily bag (total of both species) 5; possession 10

Section 8. NR 10.01(3)(bt) is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(bt) <i>Raccoon (state park resident and non-resident hunting)</i>		
Governor Dodge, Mill Bluff, <u>and</u> Mirror Lake and Newport state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	None

Section 9. NR 10.01(3)(c)1.a. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
1. Snowshoe hare		
a. <u>Governor Dodge, Mill Bluff and</u> Newport <u>Mirror Lake</u> state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	None

Section 10. NR 10.01(3)(c)2.b. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
2. Cottontail		
b. Governor Dodge, Mill Bluff, <u>and</u> Mirror Lake and Newport state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	Daily bag 3; possession 6

Section 11. NR 10.01(3)(f)3. is amended to read:

Kind of animal and locality	Open season (all dates inclusive)	Limit
(f) <i>Fox, all species</i>		
3. Governor Dodge, Mill Bluff, <u>and</u> Mirror Lake and Newport state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	None

Section 12. NR 10.01(3)(h)1.b. is amended to read.

Kind of animal and locality	Open season (all dates inclusive)	Limit
(h) <i>Coyote</i>		
b. Governor Dodge, Mill Bluff, <u>and</u> Mirror Lake and Newport state parks	Nov. 1 – Dec. 15 in 2003, 2004 and 2005	None

Section 13. NR 10.275 (intro.), (1)(a), (b)1. and (2)(c), and (3)(a) are amended to read.

NR 10.275 State park small game and migratory game bird hunting. No person may hunt game species listed in s. NR 10.01(1), (2)(a), (c), (e), (g), (3)(a), (bt), (c), (f) or (h) on the state owned portions of state parks except as provided in this section. Portions of the properties listed may be posted closed to small game and migratory bird hunting.

(1) SMALL GAME AND MIGRATORY GAME BIRD HUNTING SEASONS. (a) *Small game.* Hunting is allowed for small game in Governor Dodge, Mill Bluff, and Mirror Lake ~~and Newport~~ state parks during the seasons specified in s. NR 10.01(2)(a), (c), (e), (g), (3)(a), (bt), (c), (f) and (h).

(b) *Migratory game birds.* 1. Migratory game bird hunting for the species specified in s. NR 10.01(1) is allowed in Governor Dodge, Mill Bluff ~~and Newport~~ state parks ~~in 2003, 2004 and 2005~~ from November 1 through December 15 or until the seasons established in s. NR 10.01(1) conclude, whichever occurs first.

(2)(c) *Other hunting methods.* Dogs shall be kept on a leash not more than 8 feet long and under control at all times in all areas within the state parks listed in sub. (1) except when pursuing, hunting or retrieving game species authorized for hunting by the department, other than deer and turkey, in designated areas open to hunting in Governor Dodge, Mill Bluff, and Mirror Lake ~~and Newport~~ state parks.

(3) PERMITS AND REGISTRATION GENERAL PROHIBITIONS. (a) No person may hunt small game or migratory game birds in Governor Dodge, Mill Bluff, and Mirror Lake ~~or Newport~~ state parks without first obtaining a permit issued by the department.

Section 14. NR 10.29 is repealed and recreated to read:

Wild Turkey Hunting Zones



Section 15. NR 45.09 (10) is repealed.

Section 16. Effective date. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 17. Board adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on February 22, 2006.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)